IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 21057 of 2007(F)

PETITIONER:

NIJIPADMAGOSH 'ANURADH' HOUSE
BALUSSERRY AMSOM ,KOYILANDY TALUK,
KOZHIKODE DISTRICT,REPRESENTED BY POWER OF
ATTORNEY HOLDER & FATHER GOPALAKRISHNAN NAIR.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT
GOVT.SECRETARIAT,THIRUVANANTHAPURAM.

2. THE TAHSILDAR, KOZHIKODE TALUK,
TALUK OFFICE, KOZHIKODE.

3. PANANGAD GRAMA PANCHAYATH,
PANANGAD P.O.KOZHIKODE DISTRICT,REPRESENTED
BY ITS SECRETARY.

4. NANMANDA GRAMA PANCHAYATH,
NANMANDA P.O.,KOZHIKODE DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY G.P. SHRI.M.S.SABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 21057/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE ADHARAM NO.268/90 OF BALASSERI SRO.

P2. COPY OF THE PURCHASE CERTIFICATE NO.10227/78 OFBALUSSERY LAND TRIBUNAL, DTD.21.11.79.

P3. COPY OF THE TAX RECEIPT DTD.31.1.07.

P4. COPY OF THE BUILDING TAX RECEIPT DTD.26.10.06.

P5. COPY OF THE LAND TAX RECEIPTS DTD.2.8.95, 30.10.95, 17.7.95 AND 29.3.97.

P6. COPY OF THE BUILDING PERMIT.

P7. COPY OF THE REPLY DTD.8.6.07 BEFORE R2.

P8. COPY OF THE NOTICE DTD.16.6.07 BY R2.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.21057 of 2007

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Dated this the 20th day of July, 2007

J U D G M E N T

The petitioner challenges Ext.P8 notice by which the petitioner has been directed to vacate the properties mentioned therein within 3 days on the ground that the said land is Government land. The petitioner contends that before issuing Ext.P8 the petitioner was not given any show-cause notice or hearing and therefore, Ext.P8 has been issued in violation of the principles of natural justice as also the provisions of the Kerala Land Conservancy Act and Rules.

2. I have heard the learned Government Pleader also.

3. The learned Government Pleader could not satisfy me that before issuing Ext.P8 a notice has been issued or that a hearing has been conducted. Ext.P8 also does not contain any reason as to why emergency provisions of the Kerala Land Conservancy Act should be invoked. In the above circumstances,

I am satisfied that Ext.P8 has been issued in violation of the principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules. However, if Ext.P8 is treated as a show-cause notice, it may not be necessary to quash the same. Accordingly, I dispose of this writ petition with the following directions:

The petitioner shall file his objections to Ext.P8 within two weeks from today. The 2nd respondent shall thereafter afford an opportunity of being heard to the petitioner, which shall include opportunity to adduce evidence also. After taking evidence, the 2nd respondent shall pass a speaking order considering the objections of the petitioner as well as the evidence to be produced him. Till 7 days after the communication of the order passed as above, the petitioner shall not be evicted from the property in question. While passing final orders the 2nd respondent shall hear respondents 3 and 4 also.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.